

SENATE BILL NO. 37

BY SENATOR HENSGENS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 32:1252(51), 1253(A), and 1261(A)(1)(t)(i) and (iii), relative to
3 the Louisiana Motor Vehicle Commission; to provide for members of the motor
4 vehicle commission; to provide for terms, conditions, and requirements; to provide
5 relative to satellite warranty and repair centers; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:1252(51), 1253(A), and 1261(A)(1)(t)(i) and (iii) are hereby
8 amended and reenacted to read as follows:

9 §1252. Definitions

10 The following words, terms, and phrases, when used in this Chapter, shall
11 have the meanings respectively ascribed to them in this Section, except where the
12 context clearly indicates a different meaning:

13 * * *

14 (51) "Satellite warranty and repair center" means a motor vehicle repair
15 facility, other than at a motor vehicle dealer franchised location, approved by a
16 manufacturer or distributor and authorized to perform warranty and other repairs on
17 motor vehicles, **or a motor vehicle repair facility of a manufacturer or**
18 **distributor who, as of January 1, 2024, was licensed by the Louisiana Motor**
19 **Vehicle Commission, either directly or through a subsidiary, to lease motor**
20 **vehicles, if neither it, nor any common entity, has any franchised motor vehicle**
21 **dealers within this state, or has ever had franchised motor vehicle dealers**
22 **licensed in this state as set forth in R.S. 32:1261.**

23 * * *

24 §1253. Motor Vehicle Commission; appointment and qualifications of members;
25 terms of office; organization; oath; official bond; compensation;
26 powers and duties; **dispute resolution panel**

1 A. The Louisiana Motor Vehicle Commission is hereby created within the
2 office of the governor and shall be composed of eighteen members appointed by the
3 governor, as follows:

4 (1) A chairman of the commission shall be appointed from the state at large.
5 Fourteen members shall be appointed in such manner that at least one shall be from
6 each of the commission districts as listed below:

7 (a) Commission District 1 shall consist of the following parishes: Orleans,
8 Plaquemines, St. Bernard, St. Tammany, and Washington.

9 (b) Commission District 2 shall consist of the following parishes: Jefferson,
10 St. Charles, St. John, St. James, and Tangipahoa.

11 (c) Commission District 3 shall consist of the following parishes: East Baton
12 Rouge, West Baton Rouge, Iberville, Ascension, East Feliciana, West Feliciana, St.
13 Helena, Livingston, Assumption, and Pointe Coupee.

14 (d) Commission District 4 shall consist of the following parishes: Richland,
15 Franklin, Union, Lincoln, Jackson, Winn, Caldwell, Ouachita, Morehouse, West
16 Carroll, East Carroll, and Madison.

17 (e) Commission District 5 shall consist of the following parishes: Caddo,
18 Bossier, Webster, DeSoto, Red River, Bienville, Claiborne, and Sabine.

19 (f) Commission District 6 shall consist of the following parishes: Rapides,
20 Grant, LaSalle, Catahoula, Concordia, Avoyelles, Vernon, Tensas, and Natchitoches.

21 (g) Commission District 7 shall consist of the following parishes:
22 Beauregard, Allen, Calcasieu, Cameron, Jefferson Davis, Acadia, and Evangeline.

23 (h) Commission District 8 shall consist of the following parishes: Lafayette,
24 St. Landry, St. Martin, St. Mary, Iberia, Terrebonne, Lafourche, and Vermilion.

25 ~~(2) Each of the commissioners appointed under the provisions of Paragraph~~
26 ~~(1) of this Subsection shall have been an actively engaged licensee of the~~
27 ~~commission or its previous Louisiana licensing commission for not less than five~~
28 ~~consecutive years prior to such appointment, and be a holder of such a license at all~~
29 ~~times while a member of the commission. Being engaged in more than one such~~
30 ~~pursuit shall not disqualify a person otherwise qualified from serving on the~~

1 ~~commission. Of these members, one member shall be primarily engaged in the~~
2 ~~business of lease or rental, one member shall be primarily engaged in the business~~
3 ~~of heavy truck sales, one member shall be primarily engaged in the business of~~
4 ~~marine product sales, one member shall be primarily engaged in the business of~~
5 ~~motorcycle sales, one member shall be primarily engaged in the business of~~
6 ~~recreational vehicle sales, and one member shall be primarily engaged in the~~
7 ~~business of sales finance.~~

8 ~~(3)(a) Each of the three remaining appointive members shall be a public~~
9 ~~member who is not a licensee under this Chapter and shall be appointed from the~~
10 ~~state at large. These three commissioners shall have the sole function of hearing and~~
11 ~~deciding matters concerning brokers and disputes between manufacturers,~~
12 ~~distributors, converters, motor vehicle lessor franchisors, or representatives and~~
13 ~~motor vehicle dealers, recreational products dealers, specialty vehicle dealers, motor~~
14 ~~vehicle lessors, and hearings pursuant to R.S. 32:1270.31 et seq.~~

15 ~~(b) This function shall be performed only when so requested in writing at the~~
16 ~~time of the filing of the initial protest or initial answer to the protest. If no party~~
17 ~~requests a hearing before these commissioners, the commissioners appointed~~
18 ~~pursuant to Paragraph (1) of this Subsection shall retain jurisdiction over the dispute.~~
19 ~~Should a consumer, broker, manufacturer, distributor, converter, motor vehicle lessor~~
20 ~~franchisor, representative, motor vehicle lessor, specialty vehicle dealer, recreational~~
21 ~~product dealer, or motor vehicle dealer make the request as set forth above, the~~
22 ~~commissioners appointed pursuant to Paragraph (1) of this Subsection shall not~~
23 ~~participate, deliberate, or in any way take part in the hearing.~~

24 ~~(c) The three commissioners shall elect among themselves a chairman to~~
25 ~~serve as presiding officer of the hearing.~~

26 ~~(4) Each appointment to the commission by the governor shall be submitted~~
27 ~~to the Senate for confirmation. Each commissioner shall at the time of appointment~~
28 ~~be a resident of this state and shall be of good moral character.~~

29 **(2)(a) Of the eighteen members appointed pursuant to this Subsection,**
30 **fifteen members shall meet all of the following qualifications:**

1 (i) Has held an active license issued by the commission for at least five
2 consecutive years immediately prior to the appointment.

3 (ii) Maintains an active license throughout his term of service on the
4 commission.

5 (iii) Is a resident of this state and is of good moral character at the time
6 of appointment.

7 (b) Among the fifteen members, there shall be representation from the
8 following:

9 (i) At least one member shall be primarily engaged in vehicle leasing or
10 rental.

11 (ii) At least one member shall be primarily engaged in heavy truck sales.

12 (iii) At least one member shall be primarily engaged in marine product
13 sales.

14 (iv) At least one member shall be primarily engaged in motorcycle sales.

15 (v) At least one member shall be primarily engaged in recreational
16 vehicle sales.

17 (vi) At least one member shall be primarily engaged in sales financing.

18 (3)(a) The remaining three members shall be members of the public,
19 each of whom shall meet all of the following qualifications:

20 (i) Is either a retired judge or a licensed attorney in the state of Louisiana
21 with not less than ten years of legal experience.

22 (ii) Is not, and has never been, licensed by the commission as provided
23 in this Chapter.

24 (b) The three members of the public shall form the dispute resolution
25 panel provided for in Paragraph (4) of this Subsection.

26 (4)(a) All persons or parties involved in a dispute shall have the right to
27 have the dispute, protest, complaint, or other contested matter heard and
28 adjudicated by the dispute resolution panel. Nothing in this Paragraph shall be
29 construed to prohibit the commission from offering informal dispute resolution
30 procedures prior to the commencement of a formal adjudicatory hearing.

1 However, no party shall be required to participate in any informal dispute
2 resolution process in lieu of exercising their right to a formal hearing before the
3 dispute resolution panel.

4 (b) The dispute resolution panel shall exclusively exercise the
5 adjudicatory authority of the commission, including the power to issue
6 subpoenas, compel the attendance of witnesses, administer oaths, receive
7 evidence in connection with any hearing or other proceeding within its
8 jurisdiction, and render final decisions. This authority includes the power to
9 order remedies and impose fines as authorized by this Chapter and Chapter 6-A
10 of this Title and Chapter 10-B of Title 6 of the Louisiana Revised Statutes of
11 1950.

12 (c) The jurisdiction of the dispute resolution panel shall include all
13 disputes, protests, complaints, or other contested matters involving licensees of
14 the commission and also matters involving any person or entity operating
15 without a required license, including those subject to licensure pursuant to this
16 Chapter and Chapter 6-A of this Title, and Chapter 10-B of Title 6 of the
17 Louisiana Revised Statutes of 1950.

18 (d) The dispute resolution panel shall elect a chair to serve as the
19 presiding officer for each proceeding.

20 (e) The members of the dispute resolution panel shall not participate in
21 or vote on any of the other business of the commission.

22 (f) The commission staff shall exercise the investigatory authority of the
23 commission as delegated and subject to oversight by the commission. In the
24 exercise of its investigatory authority, the executive director of the commission
25 may issue subpoenas, compel the attendance of witnesses, administer oaths,
26 receive evidence, and carry out any other investigatory functions as authorized
27 by law.

28 (g) The attorney general shall supervise the legal services provided to the
29 commission, including the appointment of separate legal counsel for the dispute
30 resolution panel, who may be an attorney from the office of the attorney general

1 or a private attorney retained through the attorney general.

2 (h) Final decisions of the dispute resolution panel shall be in writing,
3 state specific findings of fact and conclusions of law, and be based solely on the
4 record and any matters officially noticed. The decision shall constitute the final
5 action of the commission.

6 (i)(i) Any party aggrieved by a final decision shall have the right to seek
7 judicial review pursuant to the Administrative Procedure Act, R.S. 49:950 et
8 seq., by filing a petition in the Twenty-Fourth Judicial District Court within
9 thirty days of the date the decision is transmitted to the parties by certified mail
10 or served as otherwise provided by law.

11 (ii) For purposes of this Section, "aggrieved party" means any person
12 whose legal rights, duties, or privileges were adversely affected by the final
13 decision.

14 (j) Each member of the dispute resolution panel shall be entitled to
15 reasonable compensation for his service in connection with any hearing
16 conducted pursuant to this Paragraph in lieu of the per diem paid to members
17 of the commission. The amount and manner of compensation shall be
18 established by the commission and paid from the commission's administrative
19 funds but shall not be less than the daily amount of compensation paid to
20 retired judges or lawyers sitting pro tempore or ad hoc by appointment of the
21 Louisiana Supreme Court, together with any expenses in an amount fixed by the
22 commission and authorized by law.

23 (5) Engagement in more than one category of business regulated under
24 this Chapter shall not disqualify an otherwise qualified licensee from
25 appointment to the commission.

26 (6) Each appointment by the governor shall be submitted to the Senate
27 for confirmation.

28 * * *

29 §1261. Unauthorized acts

30 A. It shall be a violation of this Chapter:

(1) For a manufacturer, a distributor, a wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative thereof:

* * *

(t)(i) To operate a satellite warranty and repair center, to authorize a person to perform warranty repairs, including emergency repairs, who is not a motor vehicle dealer, fleet owner, or an emergency services company or emergency services related company, or to authorize a motor vehicle dealer to operate a satellite warranty and repair center within the community or territory of a same-line or make motor vehicle dealer. This Subparagraph shall not apply to recreational product manufacturers. For the purposes of this Subparagraph, "fleet owner" means a person, including a governmental entity, who is approved and authorized by a manufacturer to perform warranty repairs and owns or leases vehicles for its own use or a renting or leasing company that rents, maintains, or leases vehicles to a third party. For the purposes of this Subparagraph, "emergency services company or emergency services related company" means a person who operates any vehicle designated and authorized to respond to an emergency. An emergency vehicle includes but is not limited to police and security vehicles, fire and rescue vehicles, medical vehicles, and civil emergency vehicles, including public utility crews dealing with gas, electricity, or water, or the repair of defective equipment on a scene. **However, notwithstanding the provisions of this Subparagraph, a manufacturer or distributor who, as of January 1, 2024, was licensed by the Louisiana Motor Vehicle Commission, either directly or through a subsidiary, to lease motor vehicles, may operate one or more licensed satellite warranty and repair centers in the state, if neither it, nor any common entity, has any franchised motor vehicle dealers within this state, or has ever had franchised motor vehicle dealers licensed in this state. This exception does not apply if the manufacturer or distributor acquires a controlling interest in a franchisor or a subsidiary or other entity controlled by the franchisor, or sold or transferred a controlling interest in the manufacturer or distributor to a franchisor or subsidiary or other entity controlled by the franchisor. "Common entity" means a person who is either directly or indirectly controlled by or has**

more than thirty percent of its equity interest directly or indirectly owned, beneficially or of record, through any form of ownership structure, by a manufacturer, a distributor, or a licensee, or an affiliate thereof or a person who has more than thirty percent of its equity interest directly or indirectly controlled or owned beneficially or of record, through any form of ownership or structure, by one or more persons who also directly or indirectly control or own, beneficially or of record, more than thirty percent of the equity interests of a manufacturer, a distributor, or any affiliate thereof.

* * *

(iii) A manufacturer who has or has ever had franchised motor vehicle dealers in the state and authorizes a fleet owner to perform warranty repairs shall give notification of the authorization to the dealer located in the same area of responsibility where the fleet owner intends to perform the authorized warranty repairs.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____